

SUPPLEMENTAL EXAMINER'S AMENDMENT

A supplemental examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this supplemental examiner's amendment was given in a telephone interview with Peter Olexy on 16 Feb 2010.

The application has been further amended as follows:

Amendment to the Claims

- 18 (amended). A method for the treatment of a disease associated with hyperglycemia, which comprises administering an effective amount of a fused heterocyclic derivative as claimed in claim 1, or a pharmaceutically acceptable salt thereof, ~~or a prodrug thereof~~.

Amendment to the Specification

- at page 10, line 14:

and the other of R¹ and R⁴ represents a hydrogen atom, a hydroxy group, an

DETAILED ACTION

This Office Action is responsive to Interview with Applicant on 16 Feb 2010 in which the supplemental examiner's amendment was discussed.

This application is the national stage entry of PCT/JP05/04152, filed 03 Mar 2005; and claims benefit of foreign priority document JAPAN 2004-61429, filed 04 Mar 2004; currently an English language translation of this foreign priority document is of record.

Claims 1, 3, 5-10, 12, 13, 15-20 are allowed.

Reasons for Allowance

The reasons for allowance detailed in the Notice of Allowance mailed 21 Jan 2010 are reiterated and maintained.

The closest prior art is Ellsworth et al. (US Patent 6,414,126, issued 02 Jul 2002, of record) in view of Bedell et al. (J. Org. Chem., 1962, 27, p2026-2031, of record) and further in view of Shell (US Patent 5,582,837, issued 10 Dec 1996, of record). Ellsworth et al. in view of Bedell et al. and further in view of Shell does not provide sufficient guidance to a person of ordinary skill in the art to arrive at the presently claimed invention as detailed in the detailed in the Notice of Allowance mailed 21 Jan 2010.

The closest art is Imamura et al. (WIPO Publication WO2004/080990, published 23 Sep 2004, of record) in view of Shell (US Patent 5,582,837, issued 10 Dec 1996, of

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record). WIPO Publication WO2004/080990, published 23 Sep 2004 in Japanese, is not prior art under 35 U.S.C. 102(a) or (e). The instant invention is not taught or fairly suggested by Shell alone.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Claims 1, 3, 5-10, 12, 13, 15-20 are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan S. Lau whose telephone number is 571-270-3531. The examiner can normally be reached on Monday - Thursday, 9 am - 4 pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Shaojia Anna Jiang can be reached on 571-272-0627. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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